

Board of Respiratory Care Minutes

Date: May 24, 2018

Time: 9:00 A.M. Central Time

Location: Iris Conference Room
Ground Floor
665 Mainstream Drive
Nashville, TN 37243

Members Present: Winston Granville, RRT, Board Chair
Lisa Caldwell, Board Member
Gary Keith Lovelady, MD, Physician Member
Jeffery Craig Rooks, RRT, Hospital Employee
L. Gail Braddock, Consumer Member
Robert E. Farmer, Licensed Respiratory Therapist
Curtis D. Powell, RRT, Hospital Administrator

Member(s) Absent: Kimberly Christmon, RRT, Secretary

Staff Present: Michael Sobowale, Unit Director
Mary V. Webb, Board Manager
Teresa A. Benitez, Board Administrator
Tracy Alcock, Assistant General Counsel
Lori Leonard, Disciplinary Coordinator, Office of Investigations

Guests Present: Patrick Powell, Legislative Office, Tennessee Department of Health

Call to Order:

After the roll call and with a quorum being present, Mr. Granville called the meeting to order at 9:05 A.M.

Approval of Minutes

Ms. Caldwell suggested a correction in the minutes since she had been marked absent from the November 30, 2018 meeting but was actually present. Thereafter, a motion was made by Mr. Powell, seconded by Ms. Braddock, to approve the minutes of the November 30, 2017 board meeting with suggested amendment. The motion carried.

Office of General Counsel Report

Tracy Alcock, Assistant General Counsel, presented the Office of General Counsel (OGC) report as follows:

Conflict of Interest

Ms. Alcock reminded the Board about the Conflict of Interest Policy. She reminded members of their obligation to recuse themselves from any matter in which they might have a personal or financial interest, or from participating in any matter before the board in which there might be an appearance of a conflict.

Rules

The Board's rule amendment regarding license renewal fee decrease from \$100 to \$75 went into effect on May 15, 2018. The Board held its rulemaking hearing concerning the fee decrease on November 30, 2017. After the Tennessee Attorney General's Office and the Tennessee Secretary of State approved the rule amendment, the rule amendment went before the Tennessee Legislature's Joint Government Operations Committee in April for approval.

Tracy Alcock, Troy Hamm, and Michael Sobowale attended the hearing and it went smoothly.

Litigation

Ms. Alcock reported that there are three (3) open cases in the office of General Counsel. There are three Consent orders to be presented at this meeting.

Consent Order(s)

1. **Shannon Gibson, R.R.T, License # 4167**- Ms. Alcock presented a Consent Order on Shannon Gibson. Ms. Gibson was first licensed in 2007 which will expire in September, 2018. On September 24, 2012, Ms. Gibson was arrested for Driving under the Influence (DUI), the respondent paid the fees and DUI charge was expunged. On or about June 2016, while on duty at Wyndridge Health and Rehab Ms. Gibson was asked to submit to a random urine drug screening. Respondent return with urine container with a clear warm liquid, respondent refused to submit to the urine drug screening and resigned without notice.

On or about October 11, 2016, Ms. Gibson was arrested for DUI, in Monroe County, Tennessee. On or about May 9, 2017, in General sessions Court of Monroe County, TN. Ms. Gibson was found guilty of DUI and two (2) counts of simple possession ~~for~~ of controlled substance. Ms. Gibson was sentenced to 11 months and 29 days of supervised probation. Ms. Gibson agreed to the facts alleged and the three (3) violations of the Respiratory Care Practice Act listed in the Order. Respondent agreed that her license will be placed on probation for a period of three (3) years effective from the date of the Order until all requirements in the Order are completed. Ms. Gibson must undergo a TnPAP evaluation and comply with any recommendation from the evaluation which may involve signing a monitoring agreement to run

concurrently with the period of her probation. Respondent was also ordered to pay the costs assessed for the prosecution of the case.

Thereafter, a motion was made by Ms. Caldwell, seconded by Mr. Farmer, to approve the Consent Order as presented. The motion carried.

2. **Mary N. Taylor, RRT, License #3527**- Ms. Alcock presented a Consent Order on Mary N. Taylor. Ms. Taylor was initially granted a license in November 2003; her license expired in June, 2016. She applied for reinstatement of her license in October of 2017. Ms. Taylor worked on her expired license from July 2016 to October 2017 as an RRT. She agreed to the facts and violations alleged. She has agreed that her license shall be reprimanded and also agreed to pay fifteen (15) Type “C” Civil Penalties, representative of the 15 months of her unlicensed practice in the amount of One Hundred and One dollars (\$101.00) each per penalty, which totals Fifteen Hundred and Fifteen Dollars (\$1,515.00). She also agreed to pay the cost of prosecuting the case. Thereafter, a motion was made by Dr. Lovelady, seconded by Mr. Powell, to approve the Consent Order as presented. The motion carried.
3. **Stephanie L. Mallonee, RRT, License #1231**- Ms. Mallonee was initially licensed in August 1992 and expires on January 2019. On February 11, 2016, the board approved a Consent Order disciplining Ms. Mallonee’s License. The Consent Order was the result of an incident that occurred on November 2014 at Gateway Medical Center while on duty which resulted in termination of her employment for violation of employer’s Substance Testing/Fitness for Duty Policy for testing positive for alcohol while at work Pursuant to the Consent Order ratified by the board on February 2016, the respondent agreed that her license would be placed on probation until she comply with the requirements which included that she undergoes an evaluation with TnPAP and that she complies with all recommendations of that evaluation. The probation period is to run concurrent with her TnPAP monitoring agreement and that a violation of this Order will result in a separate violation of the Respiratory Care Practice Act.

Ms. Mallonee did undergo a TnPAP monitoring agreement in April 2016. However, in June 2017, she violated her monitoring agreement when her specimen resulted positive for alcohol. In August 2017, the monitoring agreement was once again violated; she tested positive for alcohol. These constituted a violation of the Consent Order and her probation by failing to maintain 100% compliance with her Consent Order requirements. Ms. Mallonee agreed to these facts. Therefore, she has agreed to Voluntarily Surrender her license and that she will not be able to reapply for a Tennessee license for a period of four (4) years. Respondent must also execute a monitoring agreement contract and maintain advocacy with TnPAP with a 100% compliance with its terms for the duration of the agreement. In addition, she agreed to pay three (3) Type “C” Civil Penalties in the amount of One Hundred Dollars (\$100.00) each, for a total Civil Penalty of Three Hundred Dollar (\$300.00) and also pay the cost assessed for prosecuting the case. If Respondent wishes to reapply for a license after the four year period, she will need to comply with the conditional requirements listed in this Consent Order.

Thereafter, a motion was made by Mr. Farmer, seconded by Ms. Caldwell, to approve the Consent Order of Ms. Mallonee as presented. The motion carried.

Investigative/Disciplinary Report

Lori Leonard, Disciplinary Coordinator, in the Office of Investigations, presented the investigative and monitored disciplined practitioners report as follows: For the monitored disciplined practitioners, there are seven (7) under probation, four (4) are suspended, five (5) under a board order and ten (10) revocations. There are six (6) TSAC suspensions and one (1) child support suspension to report.

For the investigations report, the Office has received four (4) new complaints in 2018. These complaints consist of one (1) drug violation allegation, one (1) for a lapsed license, and two (2) for criminal convictions. The total of closed complaints for the year 2018 are eight (8); three (3) of those complaints were closed in investigation and sent to the Office of General Counsel for discipline, three (3) were closed with action, One (1) was closed with a letter of concern, and one (1) was closed with a letter of warning. Currently there are three (3) RRT complaints that are pending investigation.

The Office received two (2) CRT complaints; one (1) is for drug diversion and one (1) for criminal charges. The Office has not closed any CRT complaints for the year 2018. Currently there are two (2) open complaints that are open and under investigation.

For RCAs there are no new complaints, no closed complaints, and there are no complaints pending investigation at this time.

Financial Report

There was no new report to present at this meeting.

Applicant Interviews/File Review

Keyla Belk, CRT- Ms. Alcock reminded board members that this applicant failed to appear at the March board meeting and the board decided to table her application until the May meeting. Ms. Belk was again not present at this meeting. An administrative review of her application shows she failed to report multiple misdemeanor convictions from 2013, which included Simple Domestic Violence and Disorderly Conduct. Due to Ms. Belk's absence for an interview and after a board discussion of Ms. Belk's file, a motion was made by Dr. Lovelady, seconded by Mr. Farmer, to inform Ms. Belk that her application is deemed abandoned and thereby closed. The motion carried.

Eric R. Hayes, CRT Upgrade to RRT - Mr. Hayes was present. Mr. Hayes reinstated his CRT license in 2004 and marked "no" to the question concerning any criminal history. However, in his current upgrade application he marked "yes" to that question. The offences reported were disorderly misconduct and reckless endangerment - 2X, (one in 2003 and the other in 2013). In July 2016, he renewed his license and again failed to disclose the convictions. Mr. Hayes addressed the circumstances related to his convictions and what was reported in his application. After discussion and review by the board, Dr. Lovelady made a motion, seconded by Ms. Caldwell, to approve Mr. Hayes' license upgrade application. The motion carried.

Trevor Guthrie, RRT Reinstatement – Ms. Caldwell recused herself from hearing the matter due to conflict of interest. Mr. Guthrie was first licensed as an RRT in October 2004; he did renew his Tennessee license multiple times before moving to practice in Illinois where it expired in 2017. Mr.

Guthrie wants to reinstate his license because he is moving back to the state of Tennessee. Mr. Guthrie failed to disclose his criminal convictions when he initially applied for a license and when he renewed his license.

In his current reinstatement application, Mr. Guthrie submitted a letter addressing these criminal convictions. Mr. Guthrie explained the circumstances of the different charges to the board and the different treatments he has had to undergo to rehabilitate himself.

Ms. Alcock discussed the board's options when considering approval of a license.

After the interview Powell made a motion, seconded by Ms. Braddock, to approve Mr. Guthrie for a license contingent upon the following requirements:

- 1) Undergo an evaluation approved by the Tennessee Professional Assistance Program (TnPAP) and comply with the recommendations of said evaluation; and
- 2) Upon receiving the results of TnPAP evaluation, he must do the following:
 - a. If the results of the TnPAP evaluation state that a monitoring agreement is not recommended, then submit such proof to the Board's administrative office.
 - b. If the results of the TnPAP evaluation recommend a TnPAP monitoring agreement, then he must obtain the advocacy of TnPAP and enter into a monitoring agreement. Mr. Guthrie must submit proof of a TnPAP monitoring agreement to the Board's administrative office. During the period of time that he is required to maintain the advocacy of TnPAP, he must maintain 100% compliance with the terms of monitoring agreement for the duration of the agreement

The motion carried.

Korey Kelly, RRT Reciprocity - Ms. Kelly was present. She answered yes to the question of past criminal conviction of a D.U.I in 2011 on her application form. Ms. Kelly explained the circumstances of her conviction and what she had to do to comply with the court's sentence to the Board.

After discussion, a motion was made by Mr. Famer, seconded by Rooks, to approve Ms. Kelly's reciprocity application. The motion carried.

Louie Cordell, CRT- Mr. Cordell was present. He marked that he is not currently licensed in another state when in fact he holds a Kentucky license. Mr. Cordell explained that he has never practiced as a CRT because he obtained a job in a different field right after graduation. Mr. Cordell also answered "no" to the question as to whether he has any past criminal conviction. However, Mr. Cordell self-disclosed by submitting a written statement with his application which addressed his criminal conviction. Court documents shows that in October 2017, he pled guilty to the charges of "Failure to Drive in Lane", and Violation of Open Container Laws. Mr. Cordell addressed the circumstances related to these incidents.

After discussion, Mr. Powell made a motion, seconded by Ms. Caldwell, to approve Mr. Cordell for a CRT License. The motion carried.

Tennessee Professional Assistance Program Report (TnPAP)

Mike Harkreader, TnPAP Executive Director, gave the following report:

Statistical report from July 1, 2017- March 31, 2018

Monitoring	1
Monitoring Closed - Agreement Noncompliance	1
Referral - from TNDH, Non-regulatory	1
Treatment	1
Closed Cases	1

Ratifications

Mr. Powell made a motion, seconded by Ms. Caldwell, to approve the list of newly licensed, ~~and~~ license reinstatements for certified, registered respiratory therapists, and list of closed files as follows:

New Licenses

Registered Respiratory Therapists - Licensed

Allen Eddie Dewayne RRT
Berry Eric
Bezuidenhout Kimberly Ann
Coyle Tiffany M
Deida Doris Dekoning
Freeman William Todd mr.
Harris Susana Gale Ms
Heidelberg Jessica Dawn
Jarvis Julie Ann
Jenkins Jessica Charlene
Johnson Franklin Douglas
Jones Kara Beth RRT
Luther Natalie
Mcelroy Heather Dae
Mullins Kristie
Nemec Julie Ann
Nunnely Halie Nicole
Parrigan Amanda
Pedicone Michele Cornyn
Perry Tenniel Rene MS.
Pursley Robyn Lowery

Ross Amy
Stevens Adrian Michelle Ms.
Still Tyler Wayne
Truong Anh Qvyynh
Weems Brandon

Certified Respiratory Therapists - Licensed

Ashley Herminia M.
Bowens Charles
Coleman Tiara
Criswell Reann L Mrs
George Tashara Lavonshae
Means Deandrea
Sui Ni Kim Lydia
Tucker Sheila Hastings
Wilding Kayla May Mrs

Reinstatement (s)

RRTs

Brooks Amy Le-Shea
Freelon Cynthia Lynett
Spahn Jason Andrew

CRTs

George Tashara Lavonshae
Sims-Brown Latisha Shantrell

Closed Files

Campbell, Tara Brooke RRT
Ingersol, Mary Elle RRt
Pascual Josephine Divina RRT
Berry, Joslyn Estel
Horne, Laura Denise
Redd, Payton
Sui Ni, Kim Lydia

The motion carried.

Administrative Report

Teresa Benitez, Board Administrator, presented the administrative report as follows:

Statistical Report

Total active licensees as of May 17, 2018

RRT	CRT	RCA
Active Licensees –3,603	Active Licensees – 1293	Active Licensees – 7

Licensing activities from March 8, 2018 Through May 17, 2018:

RRT	CRT
New applications received - 70	New applications received – 23
New licenses issued – 27	New licenses issued –7
Reinstated -3	Reinstated - 3
Registered Poly Endorsement(s) - 0	Certified Poly Endorsement(s) - 0
Number of renewals – paper - 45	Number of renewals – paper - 25
Number of renewals on line - 46	Number of renewals on line - 18
Number of licensees who retired - 8	Number of licensees who retired - 1
Expired - 35	Expired – 20
Closed Files - 5	Closed Files - 4
Upgrades from CRT to RRT- N/A	NA
RRT Limited Permit to Full License- 3	CRT Limited Permit to Full License- N/A

For RRTs, the number of renewals online during this period constituted a usage rate of 25%. For CRTs the number of online renewals constituted a usage rate of 42%.

TSAC Report

TSAC Orders of Default Suspensions

TSAC Orders of Default

1. Janee Lister Bovee, RRT #4995, 03/09/18

TSAC Suspensions Lifted

1. Joy Massingill, RRT #5874, 05/03/18

Correspondence

There was no correspondence to discuss.

Discuss and take action if needed, regarding legislation

Patrick Powell, representing the Department of Health Legislative Office, provided a report on the current legislations affecting the Respiratory Care Board as follows:

Public Chapter 611

This law requires an agency holding a public hearing as part of its rulemaking process, to make copies of the rule available in “redline form” to people attending the hearing. This Act takes effect July 1, 2018.

Public Chapter 638

This Public Chapter prohibits healthcare prescribers and their employees, agents, or independent contractors from in-person solicitation, telemarketing, or telephonic solicitation of victims within 30 days of an accident or disaster for the purpose of marketing services of the healing arts related to the accident or disaster. There are specific exceptions laid out in the chapter. This Act takes effect July 1, 2018.

Public Chapter 675

This Act requires the Department of Health to accept allegations of opioid abuse or diversion and for the Department to publicize a means of reporting allegations.

Any entity that prescribes dispenses, or handles opioids is required to provide information to employees about reporting suspected opioid abuse/diversion. That notice is to either be provided individually to the employee in writing and documented by the employer or by posting a sign in a conspicuous, non-public area of minimum height and width stating: “NOTICE: PLEASE REPORT ANY SUSPECTED ABUSE OR DIVERSION OF OPIOIDS, OR ANY OTHER IMPROPER BEHAVIOR WITH RESPECT TO OPIOIDS, TO THE DEPARTMENT OF HEALTH'S COMPLAINT INTAKE LINE: 800-852-2187.” Whistleblower protections are also established. An individual who makes a report in good faith may not be terminated or suffer adverse licensure action solely based on the report. The individual also is immune from any civil liability related to a good faith report. This Act takes effect on January 1, 2019.

Public Chapter 744

This statute allows a licensing entity the discretion to not suspend/deny/revoke a license in cases where the licensee has defaulted or become delinquent on student loans if a medical hardship significantly contributed to the default or delinquency. This Act takes effect on January 1, 2019.

Public Chapter 745 and Public Chapter 793

These Public Chapters work together to create and implement the “Fresh Start Act.” Licensing authorities are prohibited from denying an application or renewal for a license/certificate/registration due to a prior criminal conviction that does not directly relate to the applicable occupation. Lays out the requirements on the licensing authorities as well as the exceptions to the law (ex: rebuttable presumption regarding A and B level felonies). These Acts takes effect July 1, 2018.

Public Chapter 754

This Public Chapter prevents any board, commission, committee, etc. created by statute from promulgating rules, issuing statements, or issuing intra-agency memoranda that infringe on an entity member's freedom of speech. Freedom of speech includes, but is not limited to, a member's freedom to express an opinion concerning any matter relating to that governmental entity, excluding matters deemed to be confidential under TCA 10-7-504. Violations as determined by a joint evaluation committee may result in recommendations to the general assembly concerning the entity's sunset status, rulemaking authority and funding. This Act took effect April 18, 2018.

Public Chapter 929

This Act redefines policy and rule and requires each agency to submit a list of all policies, with certain exceptions, that have been adopted or changed in the previous year to the chairs of the Government Operations Committees on July 1 of each year. The submission shall include a summary of the policy and the justification for adopting a policy instead of a rule. This Act also prohibits any policy or rule by any agency that infringes upon an agency member's freedom of speech. Finally, this Act establishes that an agency's appointing authority shall have the sole power to remove a member from a board, committee, etc. This Act takes effect July 1, 2018 and applies to policies adopted on or after that date.

Public Chapter 954

This legislation requires the initial licensure fee for low-income persons to be waived. Low income individuals per the statute are defined as persons who are enrolled in a state or federal public assistance program including but not limited to TANF, Medicaid, and SNAP. All licensing authorities are required to promulgate rules to effectuate the purposes of this act. This act takes effect January 1, 2019.

Public Chapter 1021

This Act allows for appeals of Contested Case hearings to be in the Chancery court nearest the residence of the person contesting the agency action or at that person's discretion, in the Chancery court nearest the place the action arose, or in the chancery Court of Davidson County. Petitions seeking review must be filed within 60 days after entry of the agency's final order. This Act takes effect on July 1, 2018.

Discuss and take action, if needed, regarding rulemaking hearings, rule amendments, and policies.

Ms. Alcock discussed the change in policy making procedures by the board, given prior discussion of Public Chapter 929. Henceforth, any policy that the Board wishes to adopt will need to be submitted to the legislature to inform them of the reason for the policy and why it is not a rule amendment.

Conferences for 2018

Ms. Webb discussed the procedures for processing board members' travel requests.

A motion was made by Ms. Caldwell, and seconded by Ms. Braddock, to make amendments to the list of attendees that the Board had previously approved to attend meetings/ conferences in 2018, and also approve the participation of new board members, Mr. Rooks and Mr. Farmer, to attend the following conferences:

AARC Summer Forum, July 17-19, 2018 in San Hill County, TX - Ms. Christmon, and Ms. Caldwell.
AARC Congress December, 2018 - Ms. Caldwell, Mr. Granville, Mr. Sobowale, Mr. Rooks, Mr. Powell, and Mr. Farmer.

CLEAR 38TH Annual Educational Conference September 26-29, 2018 in Philadelphia, PA - Mr. Sobowale, Mr. Granville, Ms. Caldwell, Ms. Christmon, Dr. Lovelady, Ms. Braddock, and Ms. Alcock.

Federal Association of Regulatory Boards (FARB) in Portland, Oregon from September 27-29, 2018 - Ms. Alcock, Mr. Sobowale, and Ms. Braddock .

NBRC 27th Annual State Licensure Liaison Group Meeting- August 24-25, 2018 at Sheraton Overland Park, KS Hotel- Mr. Rooks and Mr. Sobowale.

TSRC convention in Chattanooga in October- Ms. Alcock.

The motion carried.

Discuss old and new business

Ms. Caldwell discussed multiple state licenses (licensure compact). She commented that she had heard that some professions are already offering this kind of license and that this might be something that ~~is~~ will have to be addressed by the board in the near future. Mr. Grandville stated there are currently no concrete entities offering this type of license now.

Adjournment

There being no further business, Ms. Braddock made a motion, seconded by Ms. Caldwell, to adjourn the meeting. The meeting was adjourned at 12:00 P.M.

Winston Granville, Chair

Date

These minutes were ratified at the August 16, 2018 Board Meeting.